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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,535	03/22/2001	Thomas N. Chalin	WCMI-0021	4748

20558 7590 07/02/2002

KONNEKER SMITH  
660 NORTH CENTRAL EXPRESSWAY  
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PLANO, TX 75074

EXAMINER

JOHNSON, JONATHAN J

ART UNIT	PAPER NUMBER
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1725

6

DATE MAILED: 07/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

09/814,535-02201

**Office Action Summary**

Application No.

09/814,535

Applicant(s)

CHALIN, THOMAS N.

Examiner

Jonathan Johnson

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

Applicant's remarks submitted as Paper No. 5 on 4-4-02 have been entered and carefully considered. Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frey (6,039,336) in view of Smith et al. (6,241,266). Frey teaches welding an axle to a pivot arm that attaches to an axle, which extends greater than halfway about the axle (Figure 1, Items 3 and 7); but does not specifically teach the use of an axle connector. Smith et al. teaches welding an axle connector to an axle, without first pressing the axle connector onto the axle from an end of the axle and without using a clamp to hold the axle connector in contact with the axle; by elastically deforming the axle connector by enlarging the inner dimension of the axle connector so that the axle connector inner dimension is larger than an outer dimension of the axle at a location is held in contact with the axle during the welding, wherein no clearance exists (Figure 15, Item 232; Column 3, Lines 44-60; and Column 14, Lines 25-Column 15, Line 31); and welding the axle

connector to a body (abstract); and welding to the pivot arm after welding the axle to the connector (Figure 16, Item 232). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the axle connection method of Frey to utilize the welding the axle connector and method as taught by Smith et al. in order to ensure the prevention of any translational or rotational movement (see Smith et al. Column 3, Lines 1-6 and abstract).

### *Response to Arguments*

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the exact mechanism of elastically deforming the axle connector) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant argues that Smith teaches thermally deforming the band but does not teach elastically deforming the axle connector. The examiner disagrees. Applicant broadly claims the limitation that the axle connector is held in contact with the axle by "elastically deforming the axle connector." It is the examiner's position that, given the broadest reasonable interpretation of the claim, the compressive pressure resulting from the thermal deformation meets the claimed limitation.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that Frey teaches away from the teachings of Smith. Applicant argues that Frey teaches lowering the cost of assembly operations by using a particular axle assembly. Although this is true, the examiner would like to point out that the reference must be considered in its entirety. The overall teaching of Frey involves welding an axle body to the suspension arm (Abstract). In particular, *Frey teaches the advantages of forming an opening in the arm in order to save space by accommodating a brake, brake cylinder, or brake assembly* (Column 2, Lines 30-44) (emphasis added). Additionally, Frey teaches a method of welding a part in a tension and compression zone without tearing the wall of the axle body (Column 2, Lines 1-5). Frey's remedy for not tearing the wall of the axle body is providing a continuous reinforcement wall of the axle body because it is arguably cheaper to manufacture than welding two sleeves to form a reinforcement wall (Column 1, Lines 20-35). It is the examiner's position that Frey's teaching that the continuous reinforcement wall is a cheaper alternative to using two sleeves to form a reinforcement wall is not enough to rise to the high standard of teaching away from being combined with a reference that teaches using two sleeves to form a reinforcement wall, especially in light of the fact that the assembly of Frey specifically requires a reinforcement wall (Figure 1, item 7) and that the axle body can encompass the radius arm in 180 degree circumference (Column 3, Lines 15-20) and Frey's broader intent to save space by accommodating a brake assembly (Column 2, Lines 30-44). The rejection is maintained despite applicant's traversal.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Johnson whose telephone number is 703-308-0667. The examiner can normally be reached on M-Th 7AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 703-308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

jj  
June 21, 2002

  
TOM DUNN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700